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Attorney for Defendant
FRANK SALVADOR SOLORZA

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

No. CR 09-0217 PJH

DEFENDANT'S REPLY TO
OPPOSITION TO MOTION FOR
MISTRIAL

FRANK SALVADOR SOLORZA

Defendant.

Defendant FRANK SALVADOR SOLORZA, by and through his counsel, hereby files
this Reply to the governments Opposition to defendants motion for mistrial.

In its Opposition the government states that the question was in response to defendant's cross-examination of the previous witness about the similarity of the threats on the phone and letters and what Bertina Frost told them would happen if they did not persist in the lies in the application for a work permit and a green card. However, the court is reminded that the witness on the stand, Irma Jiminez "Escatel" stated on her direct testimony that she herself believed that Bertina Frost, or someone connected with her, was behind the scheme. This testimony was elicited by the prosecutor.

Second, the government's theory is unclear. The government in its Opposition states:

1 “The Government maintains that the identity of the “unknown callers” is, in fact, unknown
2 because it cannot be proven beyond a reasonable doubt.” Is the government saying that Irma’s
3 testimony was only “suspicion” ie “speculation”¹ and that it is not proof of the facts stated by her
4 that the voice was Ramona Solorza? Does the government concede that Irma’s testimony is
5 insufficient for the jury to find that Ramona was the person on the call? If so, the testimony
6 has no legal efficacy and it should be stricken as irrelevant.

7 Finally, the previous report that “some family members” suspected that Ramona may be
8 involved is not sufficient to attribute the suspicion to Irma. No reason for the speculation or
9 suspicion was stated in the report.

10 For the above reasons, defendant believes that a mistrial should be declared or that, as a
11 lesser alternative, the testimony must be stricken and the jury directed to disregard it..

12 Dated: June 25, 2010

13 _____/s/_____
14 FRANK BELL
15 Attorney for Defendant
16 FRANK SALVADOR SOLORZA
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26 _____
27 ¹ Defendant raised this issue in limine and the court said it would permit similar
28 testimony.